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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/605,647 | 10/15/2003 | Melanie Paine Allgood | | 2646 |

38337 7590 06/09/2004

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| EXAMINER |
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MORAN, KATHERINE M

| ART UNIT | PAPER NUMBER |
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3765

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitations "said midsection" and "said end sections". There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Berg et al. (Berg, U.S. 6,123,168). Berg discloses the invention as claimed. Berg teaches a headband 1 comprising a headband comprising a central part 2 having two ends and headband shanks 4 having curved end pieces, end sections, or earpieces 6 with a rounded end for comfort around the ear, and a hinge 3 that swingably couples each of the shanks to the central surface associated with the wearer's head, wherein each hinge means comprising a living hinge to take end sections to be folded toward the midsection.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tzeng (U.S. 4,887,895), Yeh (U.S. 5,449,008), and Wang (U.S. 5,937,872) teach relevant prior art.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The official and after final fax number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

May 13, 2004



Katherine Moran

Primary Examiner, AU 3765